

To: Michael Catanzaro [Ex. 6 - Personal Privacy] Jackson, Ryan[jackson.ryan@epa.gov]; Martin Hall[mlhall@firstenergycorp.com]
Cc: Kent Burton[kent_burton@nes-dc.com]
From: Marc Himmelstein
Sent: Tue 7/18/2017 8:08:29 PM
Subject: Fwd: A Step Toward Scientific Integrity at the EPA
[image001.jpg](#)

While I am not a big fan of Malloy, his research is sound
This is an important article to define what we know about the science panels
We are likely to propose that E&PW hold a hearing to expose this

Sent from my iPad

A Step Toward Scientific Integrity at the EPA
Scott Pruitt sweeps out Obama-era science advisers. The agency needs truly independent ones.

[https://si.wsj.net/public/resources/images/BN-UH745_milloy_GR_20170717090940.jpg]

By
Steve Milloy
July 17, 2017 5:14 p.m. ET

The Trump administration in May began the process of replacing the small army of outside science advisers at the Environmental Protection Agency. In June, 38 additional EPA advisers were notified that their appointments would not be renewed in August. To Mr. Trump's critics, this is another manifestation of his administration's "war on science." Histronics aside, the administration's actions are long overdue.

The most prominent of the EPA's myriad boards of outside advisers are the Science Advisory Board and the Clean Air Scientific Advisory Committee, or CASAC. Mostly made up of university professors, these boards also frequently draw members from consulting firms and activist groups. Only rarely do members have backgrounds in industry. All EPA boards are governed by the Federal Advisory Committee Act, which requires that they be balanced and unbiased. While the EPA is required by law to convene the SAB and CASAC, the agency is not bound by law to heed their advice.

The EPA's Obama-era "war on coal" rules and its standards for ground-level ozone—possibly the most expensive<<http://www.politico.com/story/2014/11/epa-ozone-standard-113183>> EPA rule ever issued—depend on the same scientifically unsupported notion that the fine particles of soot emitted by smokestacks and tailpipes are lethal. The EPA claims that such particles kill hundreds of thousands of Americans annually.

The EPA first considered regulating fine particles in the mid-1990s. But when the agency ran its claims<[https://yosemite.epa.gov/sab/sabproduct.nsf/92B3B27CE879F5BE852571A900665309/\\$File/cas19605.pdf](https://yosemite.epa.gov/sab/sabproduct.nsf/92B3B27CE879F5BE852571A900665309/$File/cas19605.pdf)> past CASAC in 1996, the board concluded that the scientific evidence did not support the agency's regulatory conclusion. Ignoring the panel's advice, the EPA's leadership chose to regulate fine particles anyway, and resolved to figure out a way to avoid future troublesome opposition from CASAC.

In 1996 two-thirds of the CASAC panel had no financial connection to the EPA. By the mid-2000s, the agency had entirely flipped the composition of the advisory board so two-thirds of its members were agency grantees. Lo and behold, CASAC suddenly agreed with the EPA's leadership that fine particulates in outdoor air kill. During the Obama years, the EPA packed the CASAC panel. Twenty-four of its 26 members are now agency grantees, with some listed as principal investigators on EPA research grants worth more than \$220 million.

Although the scientific case against particulate matter hasn't improved since the 1990s, the EPA has tightened its grip on CASAC. In effect, EPA-funded researchers are empowered to review and approve

their own work in order to rubber-stamp the EPA's regulatory agenda. This is all done under the guise of "independence."

Another "independent" CASAC committee conducted the most recent review of the Obama EPA's ground-level ozone standards. Of that panel's 20 members, 70% were EPA grantees who'd hauled in<<https://junkscience.com/2016/06/epa-stacked-ozone-science-panel-with-192-million-worth-of-paid-cronies/>> more than \$192 million from the agency over the years. These EPA panels make decisions by consensus, which has lately been easy enough to achieve considering they are usually chaired by an EPA grantee.

Would-be reformers have so far had no luck changing the culture at these EPA advisory committees. In 2016 the Energy and Environment Legal Institute, where I am a senior fellow, sued the agency. We alleged that the CASAC fine-particulate subcommittee was biased—a clear violation of the Federal Advisory Committee Act. We found a plaintiff who had been refused CASAC membership because of his beliefs about fine particles. Unfortunately, that individual was not willing to take a hostile public stand against the EPA for fear of professional retribution. We ultimately withdrew the suit.

The EPA's opaque selection process for membership on its advisory boards has opened the agency to charges of bias. In 2016 Michael Honeycutt, chief toxicologist of the Texas Commission on Environmental Quality, was recommended in 60 of the 83 nominations to the EPA for CASAC membership. The EPA instead selected Donna Kenski of the Lake Michigan Air Directors Consortium. Ms. Kenski received only one of the 83 recommendations. While no one objected to Mr. Honeycutt's nomination, Sen. James Inhofe (R., Okla.) lodged an objection to Ms. Kenski's nomination, claiming she had exhibited partisanship during an earlier term on the committee.

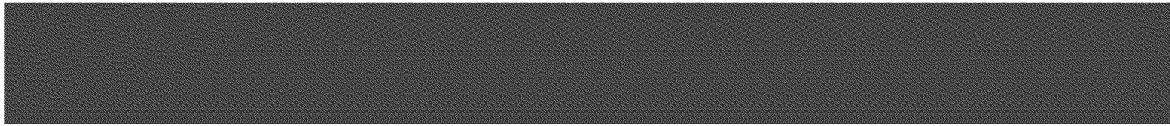
Congress has also tried to reform the EPA's science advisory process. During the three most recent Congresses, the House has passed bills to provide explicit conflict-of-interest rules for EPA science advisers, including bans on receiving EPA grants for three years before and after service on an advisory panel. The bills went nowhere in the Senate, where the threat of a Democrat-led filibuster loomed. Had they passed, President Obama surely would have vetoed them.

President Trump and his EPA administrator have ample statutory authority to rectify the problem. As Oklahoma's attorney general, Scott Pruitt spent years familiarizing himself with the EPA's unlawful ways. He is in the process of reaffirming the independence of the agency's science advisory committees. This won't mean that committee members can't have a point of view. But a committee as a whole must be balanced and unbiased. Mr. Pruitt's goal is the one intended by Congress—peer review, not pal review.

Mr. Milloy served on the Trump EPA transition team and is the author of "Scare Pollution: Why and How to Fix the EPA."

Appeared in the July 18, 2017, print edition.

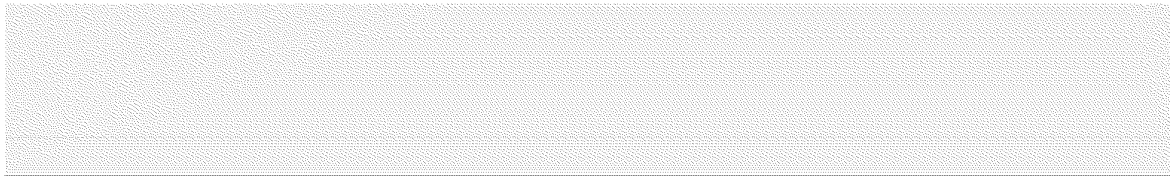
To: Jackson, Ryan[jackson.ryan@epa.gov]
From: ECOS
Sent: Fri 6/9/2017 4:11:09 PM
Subject: ECOS STEP Agenda, Innovative Approaches to Fostering Compliance, & More



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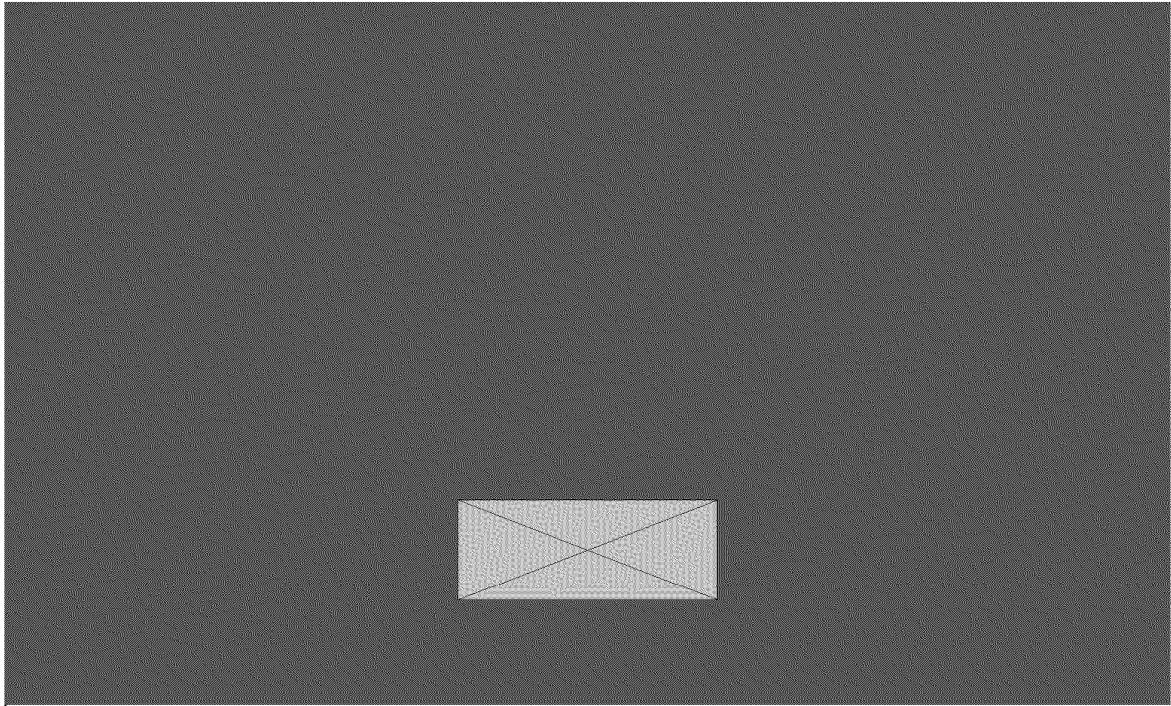


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To: Bennett, Tate[Bennett.Tate@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]
From: Don Parrish
Sent: Wed 6/7/2017 5:31:57 PM
Subject: Re: EPA to Extend Deadline for 2015 Ozone NAAQS Area Designations

Thanks for reaching out and the notification.

Don

Sent from my iPhone

On Jun 6, 2017, at 8:11 PM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:

FYI, Don! Let us know if you have any questions.

Begin forwarded message:

From: "Milbourn, Cathy" <Milbourn.Cathy@epa.gov>
Date: June 6, 2017 at 6:35:34 PM EDT
To: "Bennett, Tate" <Bennett.Tate@epa.gov>, "Konkus, John" <konkus.john@epa.gov>
Subject: EPA to Extend Deadline for 2015 Ozone NAAQS Area Designations

CONTACT:
press@epa.gov

FOR IMMEDIATE RELEASE
June 6, 2017

EPA to Extend Deadline for 2015 Ozone NAAQS Area Designations

WASHINGTON – U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt sent a letter to governors today to inform them of EPA's efforts related to the National Ambient Air Quality Standards (NAAQS) for ozone promulgated in

October 2015. EPA is extending the deadline for promulgating initial area designations, by one year, for the 2015 ozone NAAQS.

“States have made tremendous progress and significant investment cleaning up the air. We will continue to work with states to ensure they are on a path to compliance,” **said Administrator Scott Pruitt.**

The National Ambient Air Quality Standard (NAAQS) for ground-level ozone is an outdoor air regulation under the Clean Air Act. As part of the process to determine what areas of the country are able to meet the current air quality standards, states are currently submitting their proposals for area designations under the 70 parts per billion (ppb) standard, which was lowered from 75 ppb in 2015. Areas designated as being in “nonattainment” of the standard face consequences, including: increased regulatory burdens, restrictions on infrastructure investment, and increased costs to businesses.

EPA is giving states more time to develop air quality plans and EPA is looking at providing greater flexibility to states as they develop their plans. And, pursuant to the language in the recently-enacted FY2017 Omnibus funding bill, Administrator Pruitt is establishing an Ozone Cooperative Compliance Task Force to develop additional flexibilities for states to comply with the ozone standard.

Additionally, the Agency is taking time to better understand some lingering, complicated issues so that air attainment decisions can be based on the latest and greatest information. This additional time will also provide the agency time to review the 2015 ozone NAAQS, prior to taking this initial implementation step.

Although the new ozone standard was set on October 1, 2015, there remains a host of complex issues that could undermine associated compliance efforts by states and localities. The Agency is evaluating these issues, primarily focused on:

- Fully understanding the role of background ozone levels;
- Appropriately accounting for international transport,
- And, timely consideration of exceptional events demonstrations.

“We share the goal of clean air, a robust economy and stronger, healthier communities. We are committed to working with states and local officials to effectively implement the ozone standard in a manner that is supportive of air quality improvement efforts without interfering with local decisions or impeding economic growth,” **said Administrator Pruitt.**

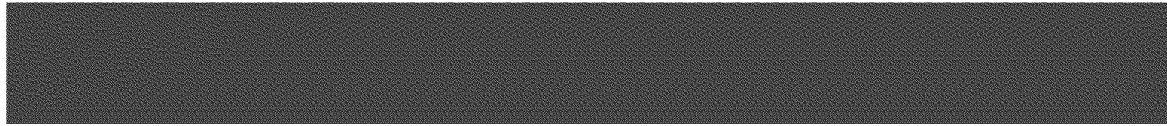
Since 1980, total emissions of the six principal air pollutants have dropped by 63 percent and ozone levels have declined by 33 percent. Despite the continued improvement of air quality, costs associated with compliance of the ozone NAAQS have significantly increased.

R107

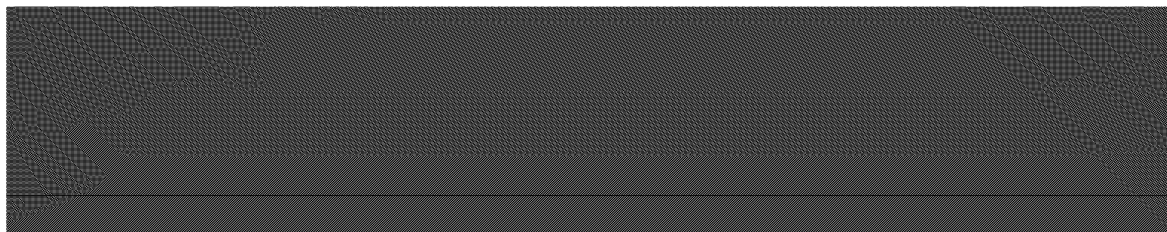
If you would rather not receive future communications from Environmental Protection Agency, let us know by clicking [here](#).
Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States

<AZ Ducey 6-6-17.pdf>

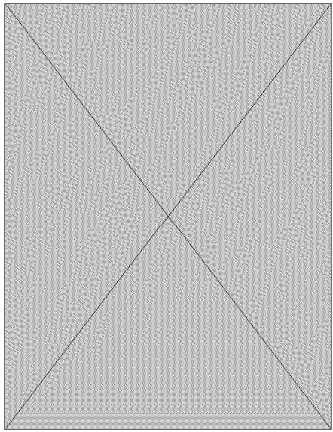
To: Jackson, Ryan[jackson.ryan@epa.gov]
From: ECOS
Sent: Fri 7/14/2017 7:03:02 PM
Subject: ECOS Seeks Nominations for Secretary-Treasurer, Wyoming Governor Confirmed for Fall Meeting, & More



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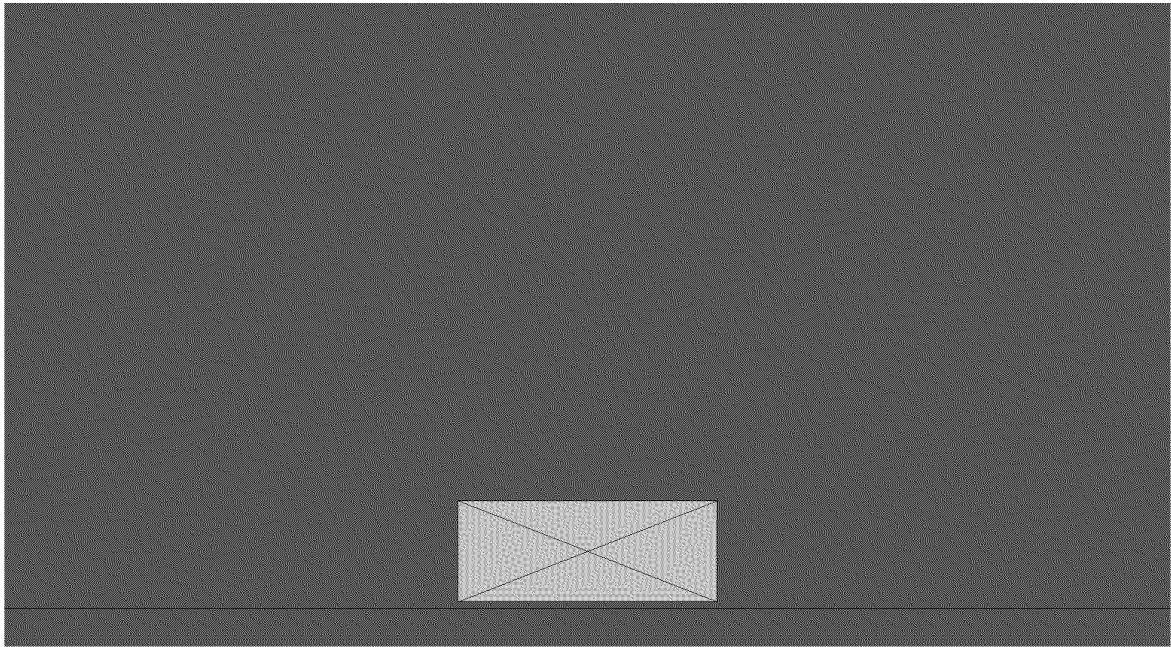


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To: Jackson, Ryan[jackson.ryan@epa.gov]
From: A.J. Ferate
Sent: Tue 9/12/2017 1:33:26 PM
Subject: Fw: Charlotte Pipe EPA visit request
EPA External Meeting Request Form - Charlotte Pipe.docx

Ryan: Please find the request for a meeting in Charlotte as we discussed last Wednesday. Please let me know the likelihood of arranging this.

Thanks again! A.J. Ferate

Anthony J. "A.J." Ferate, JD

Ex. 6 - Personal Privacy (cell)

From: A.J. Ferate
Sent: Tuesday, August 8, 2017 9:48 PM
To: Maddy Morris
Subject: Charlotte Pipe EPA visit request

Maddy: Please find attached the off-site external request form for Charlotte Pipe. Please let me know if you need anything further.

Thanks! AJF

Anthony J. "A.J." Ferate, JD

Ex. 6 - Personal Privacy (cell)

External Meeting Request Form for Administrator E. Scott Pruitt

U.S. Environmental Protection Agency

To request the Administrator to attend and/or speak at your event, please complete and submit the following form.

Today's Date: 7/31/2017

Meeting Date: When the Administrator is in Charlotte, NC

Meeting Time: Foundry facility is operating any Tuesday, Wednesday or Thursday

Requested Location (if offsite, please list address, parking instructions, etc.):

Charlotte Pipe & Foundry, 1335 S. Clarkson Charlotte, NC, 28208

Requestor: A.J. Ferate

Purpose of the Meeting:

Mr. Roddey Dowd, CEO of *Charlotte Pipe and Foundry*, heads one of the largest pipe manufacturers in the world as well as the *American Foundry Society (AFS)* consisting of 8,000 members and 2,000 metalcasting firms/suppliers. Mr. Dowd would like to provide the Administrator with a tour of his foundry facility and share some of the challenges he faces due to regulations imposed by previous EPA leadership.
(FYI, Administrator Pruitt indicated to Mr. Ferate that this is a visit he would like to make.)

Background on the Meeting:

Mr. Dowd would like, through the tour of his facility, show examples of the challenges he faces as a result of regulatory overreach. Eight (8) examples include:

~EPA Greenhouse Gas (GHG) Emissions from Electric Generating Utilities

The rule for existing plants mandates a 32% reduction in CO2 emissions by 2030. There is no commercially viable way to acquire such technologies...and metalcasting is an energy intensive industry. They're asking the EPA to develop a more cost effective, reliable, & feasible approach to reduce CO2 emissions.

~National Ambient Air Quality Standards (NAAQS) for Fine Particulate Matter (PM2.5) Air Emissions

In December 2012, EPA finalized its update to the PM2.5 rule, which set standards so low that many areas in the country, including some rural areas with no industrial operations, have

background-PM2.5 levels that are at, or near the NAAQS for PM2.5. As a result, some foundries are unable to obtain air permits to build new, state-of-the-art metalcasting operations or to expand or update their existing facilities because such activities may contribute even low levels of PM2.5 emissions to an area that would then exceed the NAAQS.

PM2.5 air emissions are reduced at metalcasting facilities with the use of baghouses and other pollution control devices. In most cases, more than 99 percent of the fine particulates are captured and not emitted into the environment.

Major flexibility is needed for metalcasters in implementing the PM2.5 NAAQS, especially as it relates to completing any air dispersion modeling. PM 2.5 NAAQS should be reviewed and realistic levels set, taking into account regional differences.

~Ozone NAAQS Revision from October 2015

This rule set a very stringent emission standard for ozone emissions from all stationary sources in the U.S. This standard is just now starting to be implemented, and is expected to result in significant costs for communities. AFS is concerned that metalcasters will not be able to expand without a reduction of emission or shut down of operations from other businesses in the area. With the revised ozone NAAQS, plans for expansion may be delayed or shelved.

On March 28, 2017 President Trump issued an Executive Order directing EPA to review for possible reconsideration any rule that could “potentially burden the development or use of domestically produced energy sources, with particular attention to oil, natural gas, coal, and nuclear energy sources.” EPA is currently evaluating whether the 2015 ozone standard is potentially subject to the review process set forth in this Executive Order.

On April 11, 2017 the D.C. Circuit indefinitely delayed the legal challenge while EPA reconsiders the 2015 ozone standard.

EPA should consider rolling back to the pre-existing Ozone NAAQS standard to allow states and impacted sources to achieve attainment and provide time to prepare to meet a new, more realistic standard in the future.

~Waters of the United States

This rule redefines the scope of the Clean Water Act (CWA) to state which waters (such as cooling ponds, catch basins) need to meet CWA standards to protect aquatic life. It is currently stayed while going through litigation, so it is not being implemented. If implemented, it would force foundries to meet CWA standards for waters on their facilities that are currently unregulated because they are not connected to navigable waters.

President Trump signed, Presidential Executive Order on Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the “Waters of the United States” Rule on February 28, 2017. The order directed EPA and the Corps to review the rule and issue a notice and comment for a proposed rule rescinding or revising the rule.

With this new rulemaking EPA should revise this rule to ensure that waters of the U.S. are defined appropriately to not broaden CWA jurisdiction and unnecessarily burden the metalcasting industry.

~Startup, Shutdown and Malfunction (SSM) Provisions

The CAA provides for some affirmative defenses for facilities that may exceed air emission limits during temporary periods of startup, shutdown and malfunction (SSM). The U.S. Court of Appeals for the D.C. Circuit vacated the rule that allows facilities to exceed applicable hazardous air pollutant emissions standards during these periods. EPA is also in the process of removing these SSM provisions as part of its residual risk and technology reviews for the national emissions standards for hazardous air pollutants.

In June 2015, EPA issued a final rule requiring states to revise their state implementation plans (SIPs) to control excess air emissions during periods of SSM and submit revised plans that address new SSM provisions to EPA for approval by November 22, 2016 (SIP Call Rule). This rule has been challenged in federal court.

EPA does not have the authority to ban affirmative defenses for SSM, nor is it practical for facilities to comply with emissions standards during periods of SSM.

Without action from EPA, the rule will lead to unnecessary violations for emissions over which facilities have no control. EPA should withdraw the SIP Call Rule and reinstate affirmative defenses.

~Residual Risk and Technology Review for Iron and Steel Foundries

Air emissions from iron and steel foundry major sources are subject to the national emissions standards for hazardous air pollutants (NESHAP). EPA must conduct a residual risk and technology review (RTR) for all NESHAPs eight years after promulgation. The RTR of the iron and steel foundry NESHAP is now due.

Recently, EPA has issued more stringent and revised NESHAPs for several industry source categories, even though the RTR process determined that the risks associated with the controlled emissions from these sources were acceptable and that no new control technologies were identified.

This regulatory overreach is not consistent with the letter and intent of the Clean Air Act (CAA), but nonetheless has been upheld by federal appeals courts.

AFS urges the EPA to implement the RTR process for iron and steel foundries that is consistent with the letter and intent of the CAA.

~Stormwater Management

Metalcasters operate under a multi-sector general permit (MSGP), as is the case for most industrial stormwater dischargers, and must implement best management practices (BMPs) to meet stormwater benchmark concentration levels. If a benchmark level is exceeded, facilities must review their BMPs and determine if additional BMPs must be implemented, or if other corrective measures are needed.

Many of the benchmark concentration levels for metals have been set so unrealistically low that it may not be possible for metalcasting operations to meet the benchmarks. In fact, many are so low that nearly all residential and commercial stormwater discharges would exceed them. As a result, many metalcasting operations could face unnecessary enforcement issues, even though their stormwater discharges are effectively controlled with BMPs.

EPA should provide flexibility in enforcing benchmarks as permit levels. If left unchecked this permit process will be never-ending, extremely burdensome, and very expensive for our industry.

and in some instances not even technically feasible.

~Permitting

The permitting process for new or existing facilities in the metalcasting industry is unnecessarily costly and time consuming. Often the multiple stringent requirements and processes make it impossible to build a project that will create jobs. The current rules for New Source Review and Significant Deterioration are outdated and are the single greatest impediment to industrial job growth in the country.

The process can be streamlined by addressing the regulatory morass listed above. Also, leaving permitting of facilities to the states would eliminate EPA review and attendant delays. Cumbersome and unpredictable air emissions modeling should be revised to allow projects to proceed without environmental harm.

Role of the Administrator: Attend as part of a fact-finding mission to see the impact of EPA regulations on industry.

Charlotte Pipe has no known violations or enforcement actions before EPA.

Attendees: Roddey Dowd (Owner), Brad Muller (Charlotte Pipe & Foundry Gov't Relations), Max Justice (Legal Consultant/Partner at Parker Poe), and Stuart Jolly (consultant)

Points of Contact:

Brad Muller 704.519.8352 / Stuart Jolly 405.514.0514 / AJ Ferate 202.486.7211

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Marc Himmelstein
Sent: Wed 7/12/2017 7:00:55 PM
Subject: Talking points
NES-QEP EPA Talking Points - Rep Bishop 170710 ver4.docx
ATT00001.txt

Here are the talking points we sent Chairman Bishop for tomorrow's call

Talking Points for Telephone Conference with EPA Administrator Pruitt

Introduction and Background

- Thank you for taking the time to discuss an important issue impacting domestic energy development and, specifically, my 1st Congressional District of Utah.
- The Uinta Basin is a prolific oil and natural gas producing region and is in my district. The Basin includes state, federal and tribal land – or state and tribal “airsheds” (for the purpose of our discussion). The tribal airshed is associated with the Uintah and Ouray Reservation and includes a majority of the Basin’s active oil and natural gas wells (approximately 70 percent).
- **The purpose of my call is to ask you to: (1) amend the National Tribal NSR FIP to apply in nonattainment areas until a local or “reservation-specific” FIP is in place, and, (2) commence a collaborative stakeholder process now to develop a local/reservation-specific FIP for the Uinta Basin.** I am happy to provide suggested language to accomplish this.
- In recent years, concentrations of ozone in the Uinta Basin have reached or exceeded the national ozone standards during the winter months. Wintertime ozone is a relatively new discovery, limited to a small number of isolated basins in the Intermountain West. Wintertime ozone formation is not fully understood and much of this phenomenon appears to be driven by atmospheric conditions outside of our control. The Uinta Basin is expected to be designated “nonattainment” under the 2015 ozone standard.
- It is important to note that oil and natural gas production in the Basin has declined in recent years. Much of this decrease in development is attributed to low energy prices and the regulatory burdens imposed by the previous administration discouraging federal land development. As production declined, emissions from oil and natural gas development followed suit.

Issue

- EPA finalized the current *Federal Implementation Plan for True Minor Sources in Indian Country for the Oil and Natural Gas Production and Processing Segments (National Tribal NSR FIP)* last summer (June 2016). Industry operators have been and continue to register new development in the tribal airshed of the Basin under the National Tribal NSR FIP.
- Importantly, the National Tribal NSR FIP does not apply to nonattainment areas. Therefore, upon a final nonattainment designation anticipated next year, oil and gas development in the Basin’s tribal airshed will be disadvantaged because a streamlined permitting program will not exist. Further, EPA Region 8 has communicated to operators that site-specific permitting under the NSR Rule for Indian Country also will not be available due to inadequate staff/Agency resources and the Region’s inability to prove (or disprove) that minor sources of emissions will not “cause or contribute” to a violation of the national ozone standard (taking us back to the challenge of understanding wintertime ozone formation/causation). This will hurt my district enormously. Last year, the Region proposed a local tribal FIP that was opposed by the tribes, the industry and the State. Incredibly, it treated existing sources more restrictively than new sources.
- We ask the Agency to develop a streamlined permitting solution for future development of the Basin. Your Agency may rely on the emission reductions realized from the recent decline in production and industry’s commitment to work with your Agency to identify the appropriate emission control program necessary for the Basin to achieve and maintain attainment of the ozone standard.

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: A.J. Ferate
Sent: Tue 10/31/2017 10:12:24 PM
Subject: Fw: Charlotte Pipe EPA visit request
[EPA External Meeting Request Form - Charlotte Pipe.docx](#)

Ryan: Good to see you the other night. As you mentioned, there might be a chance to get the Administrator down to Charlotte by the end of the year. I am re-sending this letter in the event that that is a possibility. Please let me know if we can work something out.

Thank you very much, AJF

Anthony J. "A.J." Ferate, JD
Ex. 6 - Personal Privacy (cell)

From: A.J. Ferate
Sent: Tuesday, September 12, 2017 8:33 AM
To: jackson.ryan@epa.gov
Subject: Fw: Charlotte Pipe EPA visit request

Ryan: Please find the request for a meeting in Charlotte as we discussed last Wednesday. Please let me know the likelihood of arranging this.

Thanks again! A.J. Ferate

Anthony J. "A.J." Ferate, JD
Ex. 6 - Personal Privacy (cell)

From: A.J. Ferate
Sent: Tuesday, August 8, 2017 9:48 PM
To: Maddy Morris
Subject: Charlotte Pipe EPA visit request

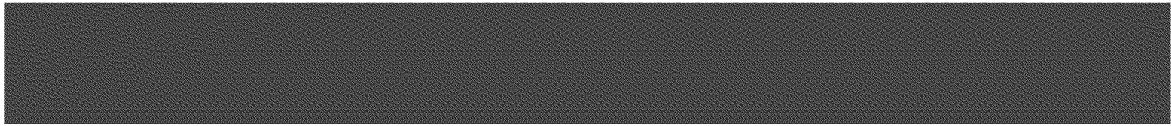
Maddy: Please find attached the off-site external request form for Charlotte Pipe. Please let me know if you need anything further.

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Anthony J. "A.J." Ferate, JD

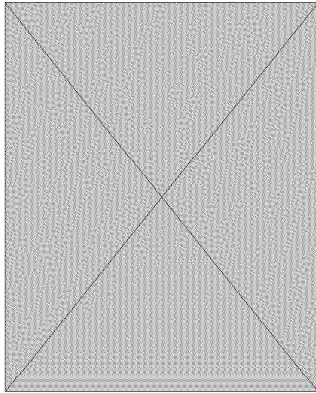
Ex. 6 - Personal Privacy (cell)

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: ECOS
Sent: Fri 8/4/2017 7:16:46 PM
Subject: ECOS Explores Lean, Superfund, & Results, Publishes Green Report on Permit Streamlining



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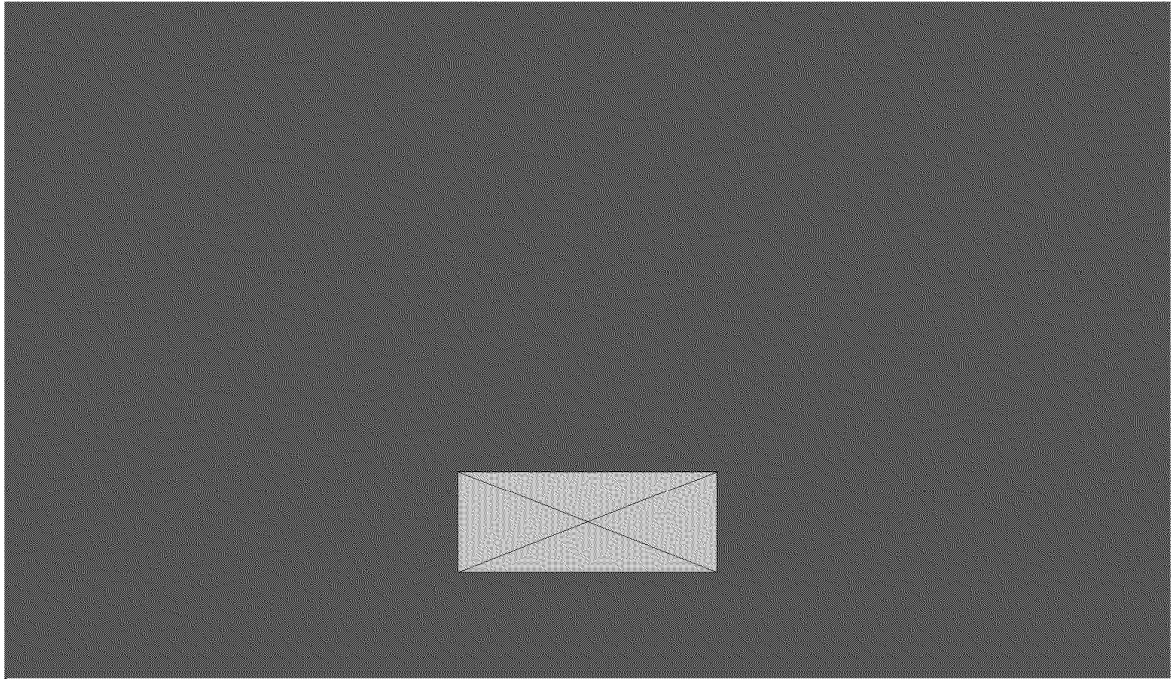
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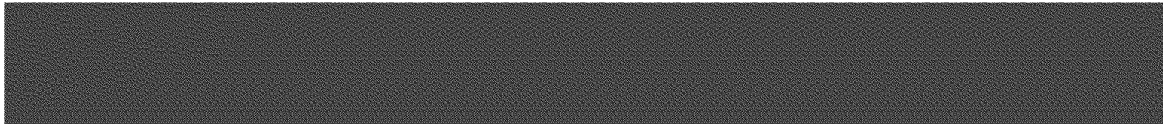
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To: Jackson, Ryan[jackson.ryan@epa.gov]
From: ECOS
Sent: Fri 12/22/2017 4:34:41 PM
Subject: ECOS Leaders Meet in Washington to Advance Cooperative Federalism, Congress Funds Government thru Mid-January, & More



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